

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

AMNESTY INTERNATIONAL USA, CENTER
FOR CONSTITUTIONAL RIGHTS, INC. and
WASHINGTON SQUARE LEGAL SERVICES,
INC.,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY,
DEPARTMENT OF DEFENSE, DEPARTMENT
OF HOMELAND SECURITY, DEPARTMENT
OF JUSTICE, DEPARTMENT OF STATE, AND
THEIR COMPONENTS

Defendants.

ECF CASE

07 CV 5435 (LAP)

DECLARATION OF KYLE M. DEYOUNG

I, Kyle M. DeYoung, being duly sworn, hereby depose and state the following based on my personal knowledge:

1. I am a counsel at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”). I am one of the attorneys who has principal responsibility for handling the above-captioned lawsuit on behalf of WilmerHale.

2. On April 25, 2006, Plaintiffs filed Freedom of Information Act requests with the Department of Homeland Security and several of its component entities—including Immigration and Customs Enforcement, Customs and Border Protection, Office of Intelligence and Analysis, and Office of Policy.

3. Plaintiffs filed a timely appeal to ICE’s denial of their request for expedited processing on July 3, 2006 and confirmed their continuing need for the records in response to a

September 21, 2006 letter from ICE on October 19, 2006. Plaintiffs did not receive any substantive response from ICE until August 15, 2007.

4. Plaintiffs' filed timely appeals with the CBP Office of Field Operations, the CBP Office of Anti-Terrorism, and the CBP Office of International Affairs challenging the adequacy of each office's search for responsive documents. Plaintiffs received no response from CBP regarding its appeal of the Office of Field Operations search.

5. Plaintiffs filed a timely appeal challenging the adequacy of the Office of Intelligence & Analysis search but did not receive a response.

6. Plaintiffs filed a timely appeal challenging the adequacy of the Office of Policy's search but did not receive a response.

7. Attached to this Declaration are true and accurate copies of the following documents:

1. Office of the White House Press Secretary, *President Discusses Creation of Military Commissions To Try Suspected Terrorists*, Sept. 6, 2006, printed from the Whitehouse website at <<http://www.whitehouse.gov/news/releases/2006/09/20060906-3.html>>, last viewed January 4, 2008. (Exhibit 1)
2. Plaintiffs' FOIA Request to the Department of Homeland Security dated April 25, 2006. (Exhibit 2)
3. DHS, Office of Inspector General, *Survey of DHS Intelligence Collection and Dissemination*, June 2007, printed from the DHS website at <http://www.dhs.gov/xoig/assets/mgmttrpts/OIG_07-49_Jun07.pdf> last viewed January 4, 2008. (Exhibit 3)
4. Office of the Director of National Intelligence, *Summary of the High Value Terrorist Detainee Program*, printed from the Director of National Intelligence website at <<http://www.dni.gov/announcements/content/TheHighValueDetaineeProgram.pdf>>, last viewed January 4, 2008. (Exhibit 4)
5. Customs and Border Protection, *Anti-Terrorism Initiatives*, printed from the Customs and Border Protection website at

- <http://www.cbp.gov/xp/cgov/border_security/antiterror_initiatives/>, last viewed January 4, 2008. (Exhibit 5)
6. Excerpts from the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, *Report of the Events Relating to Maher Arar: Analysis and Recommendations* ("Canadian Inquiry Report") (2006), printed from the Commission of Inquiry website at <http://www.ararcommission.ca/eng/AR_English.pdf>, last viewed January 4, 2008. (Exhibit 6) The complete document is available at the Commission of Inquiry website
 7. Associated Press, *Congress Apologizes to Victim of Rendition*, L.A. Times, Oct. 19, 2007. (Exhibit 7)
 8. Richard B. Schmitt & Christopher Guly, *Deportation to Syria Backed*, L.A. Times, Sept. 20, 2006. (Exhibit 8)
 9. Letter from Michael Chertoff and Alberto Gonzalez to the Honorable Stockwell Day, dated January 16, 2007, printed from the Canadian Broadcasting Corporation website at <<http://www.cbc.ca/news/background/arar/Chertoff-Gonzales-letter-to-Day.pdf>>, last viewed January 4, 2008. (Exhibit 9)
 10. Excerpts from DHS, Office of Inspector General, Fiscal Year 2007 Annual Performance Plan (Revised April 2007), printed from the DHS website at <http://www.dhs.gov/xoig/assets/OIG_APP_FY07.pdf>, last viewed January 4, 2008. (Exhibit 10). The complete document is available at the DHS website.
 11. Press Release, Office of Senator Patrick Leahy, *Leahy, Specter Press DOJ, DHS On Investigations Into Rendition Of Canadian Citizen Maher Arar To Syria* (Feb. 28, 2007), printed from Senator Leahy's website at <<http://leahy.senate.gov/press/200702/022807a.html>>, last viewed January 4, 2008. (Exhibit 11)
 12. Scott Shane, *German Held in Afghan Jail Files Lawsuit*, N.Y. Times, Dec. 7, 2005. (Exhibit 12)
 13. Glenn Kessler, *U.S. Said to Admit German's Abduction Was an Error*, Wash. Post, Dec. 7, 2005. (Exhibit 13)
 14. Letter from Ann Beeson, Ben Wizner, Melissa Goodman, ACLU to Condoleezza Rice and Michael Chertoff, dated Dec. 8, 2005, printed from the ACLU website at <http://www.aclu.org/images/extraordinaryrendition/asset_upload_file605_22380.pdf>, last viewed January 4, 2008. (Exhibit 14)
 15. Dana Priest, *The Wronged Man*, Wash. Post, Nov. 29, 2006. (Exhibit 15)

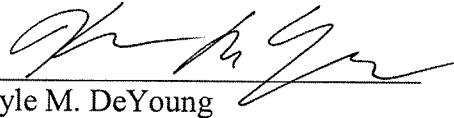
16. Letter from Curt Goering, Margaret Satterthwaite and Catherine Ronis to DHS Privacy Office, dated July 3, 2006. (Exhibit 16)
17. Letter from Margaret Elizalde, Supervisory Program Analyst, U.S. Immigration and Customs Enforcement, to Catherine Ronis dated September 21, 2006. (Exhibit 17)
18. Letter from Kyle DeYoung to Margaret Elizalde, Supervisory Program Analyst, U.S. Immigration and Customs Enforcement, dated October 19, 2006. (Exhibit 18)
19. Statement of MNF-I, C2, IMIR CW2, Annex to Fay/Jones/Kern Report (June 16, 2004), printed from the ACLU website at <http://www.aclu.org/torturefoia/released/030905/>, last viewed January 4, 2008. (Exhibit 19)
20. Sworn Statement of SGT, 372nd MP Co, Annex to Fay/Jones/Kern Report (May 7, 2004), printed from the ACLU website at <http://www.aclu.org/torturefoia/released/030905/>, last viewed January 4, 2008. (Exhibit 20)
21. R. Jeffrey Smith, *Soldier Described White House Interest: Staff Requested Data from Abu Ghraib, Probers Told*, Wash. Post., June 9, 2004. (Exhibit 21)
22. Letter from Curt Goering, Margaret Satterthwaite and Catherine Ronis to Sandra Bell, Acting Assistant Commissioner, Office of Regulations and Rulings, U.S. Customs and Border Protection, dated July 6, 2006. (Exhibit 22)
23. Letter from E. Keith Thomson, Assistant Commissioner, Office of International Affairs, U.S. Customs and Border Protection to Catherine Ronis, dated May 17, 2006. (Exhibit 23)
24. Letter from Kathleen Dailey McKevitt, Acting Director, Field Programs, Office of Field Operations, U.S. Customs and Border Protection to Catherine Ronis, dated June 1, 2006. (Exhibit 24)
25. Letter from Kevin McAleenan, Executive Director, Office of Anti-Terrorism, U.S. Customs and Border Protection to Catherine Ronis, dated June 8, 2006. (Exhibit 25)
26. Letter from Catherine Ronis to Sandra Bell, Acting Assistant Commissioner, Office of Regulations and Rulings, U.S. Customs and Border Protection, dated July 13, 2006. (Exhibit 26)

27. Letter from Shari Suzuki, Chief, FOIA Appeals, Policy & Litigation Branch, U.S. Customs and Border Protection to Catherine Ronis, dated February 28, 2007. (Exhibit 27)
28. Letter from Shari Suzuki, Chief, FOIA Appeals, Policy & Litigation Branch, U.S. Customs and Border Protection to Catherine Ronis, dated April 2, 2007. (Exhibit 28)
29. Letter from Catrina M. Pavlik-Keenan, FOIA Officer, U.S. Immigration and Customs Enforcement to Catherine Ronis, dated August 15, 2007. (Exhibit 29)
30. Letter from Sandy Ford Page, CIPP Director, Disclosure Initial Denial Authority Preparedness Directorate to Catherine Ronis, dated July 25, 2006. (Exhibit 30)
31. Letter from Curt Goering, Margaret Satterthwaite and Catherine Ronis to the Chief Privacy Office of DHS, dated July 13, 2006. (Exhibit 31)
32. Letter from Curt Goering, Margaret Satterthwaite and Catherine Ronis to the DHS Office of General Counsel, dated July 3, 2006. (Exhibit 32)
33. Letter from Catherine Papoi, Deputy Chief FOIA Officer Director, Disclosure & FOIA of DHS to Catherine Ronis, dated November 28, 2006. (Exhibit 33)
34. Letter from Curt Goering, Margaret Satterthwaite and Catherine Ronis to the DHS Office of General Counsel, dated January 26, 2007. (Exhibit 34)
35. Letter from Margaret Satterthwaite to Jeannette Vargas and Brian Feldman, United States Attorney's Office, dated October 24, 2007. (Exhibit 35)
36. Letter from Brian Feldman and Jeannette Vargas, United States Attorney's Office to Kyle DeYoung, dated November 6, 2007.
37. DOJ, OIP, *Determining the Scope of a FOIA Request*, FOIA Update, Volume 16, No. 3 (1995), printed from the Department of Justice website at <http://www.usdoj.gov/oip/foia_updates/Vol_XVI_3/page3.htm>, last viewed January 4, 2008. (Exhibit 37).
38. Bill Mears, *Supreme Court Rejects Appeal over Secret 9/11 Detentions*, CNN.com, Jan. 12, 2004, printed from the CNN website at <<http://www.cnn.com/2004/LAW/01/12/scotus.terrorism.secrecy/index.html>>, last viewed January 4, 2008. (Exhibit 38).
39. Condoleezza Rice, *Remarks Upon Her Departure to Europe*, Dec. 5, 2005, printed from the Department of State website at

<<http://www.state.gov/secretary/rm/2005/57602.htm>>, last viewed January 4, 2008. (Exhibit 39)

40. Christopher Kojm, Testimony before National Commission on Terrorist Attacks Upon the United States, Mar. 24, 2004 at 1-13, printed from the Government Information Library website at <http://govinfo.library.unt.edu/911/archive/hearing8/9-11Commission_Hearing_2004-03-24.htm> last viewed January 4, 2008. (Exhibit 40)
41. Letter from Brian Feldman and Jeannette Vargas, United States Attorney's Office, to Kyle DeYoung, dated December 28, 2007. (Exhibit 41)
42. Letter from Robert Jackstra, Executive Director, Travel Security and Facilitation, U.S. Customs and Border Protection, to Ann Beeson, dated January 5, 2006. (Exhibit 42)

I declare under the penalty of perjury that the foregoing is true and correct. Executed this 4th day of January, 2008.



Kyle M. DeYoung